R. SAUKIE

New York State Department of Environmental Conservation
Division of Environmental Remediation, Room 260B
50 Wolf Road, Albany, New York 12233-7010
Phone: (518) 457-5861 • **FAX:** (518) 485-8404
Website: www.dec.state.ny.us

John P. Cahill
Commissioner

MAR 24 2000

Mr. Richard Caspe
Director
Emergency & Remedial Response Division
United States Environmental Protection Agency
Region II
290 Broadway
New York, New York 10007-1866

U.S. EPA, REGION II
EMER. & REM. RES. DIV.
2000 MAR 29 PM 2:28
DIRECTOR'S OFFICE

Dear Mr. Caspe:

Re: BCF Oil Refining, Inc.
Brooklyn, New York
Request for Emergency Removal

The New York State Department of Environmental Conservation (NYSDEC) hereby requests the United States Environmental Protection Agency (USEPA) to perform an appropriate CERCLA/SARA authorized emergency response action at the BCF Oil Refining, Inc., 360 Maspeth Avenue site.

The BCF Oil Refining, Inc. (BCF) site is a waste oil reprocessing facility, whose above and below ground tanks contain a total of over one-half of a million gallons of PCB contaminated waste oil. In addition, other ancillary wastes are stored on this site in 55-gallon drums, a tanker truck and other containers. The site is situated on the banks of the English Kills and the integrity of the tanks and secondary containment is questionable. Staff believe that there is likelihood that in the event that one or more of the above ground tanks fail the secondary containment would not contain the spilled oil, thus discharging hazardous waste into the English Kills. In addition, the underground storage tanks may also be leaking and flowing into the English Kills.

Recently, the attorney for BCF has advised the NYSDEC that his clients are terminating their security of the site effective as soon as USEPA makes response. Thus BCF appears no longer willing to be responsible for the maintenance or cleanup of the site. The combination of the potential failure of the hazardous waste storage/containment system with the abdication of the site owner/operator of their responsibility to monitor and maintain the site represents a potential threat to the environment. The immediate concern is for site security.

I have enclosed for your information a March 22, 2000 internal memorandum prepared by Richard Gardineer, New York City Regional Office, regarding conditions at the BCF site.

Julian W. Friedman, Esq., representing BCF, should be contacted in order to gain access to the site. Mr. Friedman's firm is Stillman and Friedman, 425 Park Avenue, New York, New York 10022, and his telephone number is (212) 223-0200. He has stated to DEC representatives that he will turn over the keys to the USEPA officer who contacts him and makes arrangements to receive them.

If you have any questions, please contact Mr. Richard Gardineer at (718) 482-4995.

Sincerely,

Michael J. O'Toole, Jr.
Director
Division of Environmental Remediation

Enclosure

cc: B. Sprague, USEPA, Region II, Edison, NJ
R. Salkie, USEPA, Region II, Edison, NJ

New York State Department of Environmental Conservation
Division of Environmental Remediation, Region 2
47-40 21ST Street, Long Island City, NY 1101-5407
Phone: (718) 482-4995 FAX: (718) 482-6358

John P. Cahill
Commissioner

MEMORANDUM

To: Michael O'Toole, Director, Division of Environmental Remediation
From: Richard Gardineer, Regional Engineer
Subject: BCF Oil Refining, Inc. - Request For EPA Emergency Removal Action
Date: March 22, 2000

This Memorandum is to provide information for a request to the USEPA for an emergency removal action for the BCF Oil Refining, Inc. Facility in Brooklyn, New York.

Summary of Necessity For Emergency Removal:

BCF Oil Refining, Inc. ("BCF"), 360 Maspeth Avenue, is a waste oil reprocessing facility, whose above and below ground tanks contain a total of over one half of a million gallons of PCB contaminated waste oil. In addition, other ancillary wastes are stored on this site in 55 gallon drums, a tanker truck and other containers. The site is situated on the banks of the English Kills and the integrity of the tanks and secondary containment is questionable. Staff believe that there is likelihood that in the event that one or more of the above ground tanks fail, the secondary containment would not contain the spilled oil, thus discharging hazardous waste into the English Kills. In addition the underground storage tanks may also be leaking and flowing into the English Kills. Recently, the attorney for BCF has advised the Department in writing (See Attachment A.) that his clients are terminating their security of the site effective close of business, March 17. In this letter, they request that the Department "take over the management of the facility in a safe and orderly manner." This letter implies that BCF Oil Refining, Inc. is no longer willing to be responsible for the maintenance, nor cleanup of the site. The combination of the potential failure of the hazardous waste storage / containment system with the abdication of the site owner / operator of their responsibility to monitor and maintain the site has created the necessity for the immediate removal of this waste.

Removal / Remedial Actions Needed:

Our review of the site suggests that it be addressed in four steps or phases, as follows:

1) The immediate response should commence with the implementation of site security. Other actions in this step or phase must address the replacement / maintenance of the boom along the English Kill and the removal of on-site wastes including:

a) approximately 550,000 gallons of PCB contaminated wastes in the form of oil,

water and solids that are contained in 4 Above Ground Storage Tanks (ASTs) and 12 Underground Storage tanks (USTs).

b) 32 each - 55 gallon drums (some are in 85 gallon drum overpacks),
c) 1 each - 6,000 gallon tanker, and
d) 1 each - 20 tons of solid waste in a rolloff container.

2) After the emergency removal action, next step should include the cleaning and removal of the ASTs, USTs, and connecting pipes, the tearing down of a structure known as the screen house, and the investigation / removal of floating free product plumes on the groundwater both in the font of the building along Maspeth Avenue and along the western property line.

3) The third step or phase would be to conduct a Phase II Preliminary Site Assessment to determine the type and extent of contamination of the soil, groundwater, and surface water. Dependent upon the results, a Remedial Investigation / Feasibility Study may be required.

4) The final step would be to design, implement, and maintain a remedial program for the site.

Site History:

The 1.85 acre site on 360 Maspeth Avenue is bounded by the Brooklyn Union Gas-Greenpoint Energy Facility to the North, a gasoline and fuel oil distribution terminal to the East, the English Kills (a part of Newtown Creek) to the South and an industrial supply facility to the West. The soil is characterized by construction debris filling materials on an embankment on shore. Groundwater elevation is between 2-10 feet below the ground level and strongly influenced by the tidal effects.

The site has had at least 15 years of continuous petroleum contamination. From 1980 to 1995 it was used as a waste oil processing facility (with no permit for 11 years, for 4 years with a DEC permit). In 1994 the facility closed after PCB contamination was discovered in all but two of the tanks. At present, BCF continues to store the oil with high levels of PCBs in very old tanks of uncertain tightness and integrity. The concentrations of PCBs in the tanks range from several tanks with less than 50ppm to tanks with 460ppm and 630 ppm. Taken together, these facts underscore the desperate need for immediate cleanup.

DEC refused to renew BCF's MOSF license by letter dated April 25, 1995 based upon the contamination at the facility. In that letter DEC references BCF's claim that it did not have the funds to pay for the clean-up. After several years, during which BCF lost litigation that it commenced to prove that Con Edison was responsible for the PCBs, nothing has been done.

BCF had proposed to finance the clean-up of the facility by allowing it to restart the operation of the site, using the income to finance the removal of the wastes and the upgrade of the site. Various reports regarding this option were submitted in early 1999. Negotiations continued through the early summer, when issues arose over the TSCA "contact rule", regarding the

classification of the wastes for disposal (BCF wanted the wastes classified based on their actual concentration rather than all wastes being considered as PCB based on contact with the highly concentrated PCB waste that went through the tanks.), and whether the underground tanks could be closed in place and new tanks constructed on top of them. On December 9, 1999, DEC advised BCF in writing the types of permit approval was needed, including a SEQR review, and the removal, investigative and remedial activities that must occur, before the project could start up again.

During a December 13 meeting, BCF advised the Department that they were no longer interested in operating the site and only wanted to remove all on-site wastes, investigate and clean up the site, before selling the site. Subsequently, a consent order was being negotiated to address all of these activities, including a release when all work was satisfactorily completed. A work plan addressing closure activities was received on or about December 31, 1999. Preliminary comments on the work plan were given in a January 13, 200 telephone conference and negotiations regarding the work plan continued in four ensuing telephone conversations. A surety estimate was transmitted to the Department on February 18, 2000 and legal / technical discussions continued about the surety in late February / early March. A March 14, 2000 letter was sent to BCF's consultant formally submitting the Department's comments that had been previously transmitted in early January, confirming the changes to the site investigation that had been agreed to between the consultant and the Department in telephone conversations in January and February, and responding to the surety proposed by BCF. In early March, BCF's consultant did not respond to the Department's telephone calls and e-mail.

Determining Factors For Emergency Removal:

Staff's inspection of the site revealed physical conditions which suggest that there is an imminent hazard that one or more of the tanks will fail and the PCB contaminated waste oil will be released into the environment including.

1. Tank integrity. The tanks at the facility range in age from those installed in the 1930s to several installed in the 1960s and 1970s. Note, none of the tanks have been tightness tested or otherwise tested for integrity as required by Parts 373, 374 and 614.

There are approximately 12 underground tanks of varying age, some of which were installed in the 1930's. Of these we do not know whether any are structurally sound. Based on past comments made by the facility's operators and consultants there was speculation that the tanks were encased either fully or partly in concrete bases. This presumption could not be substantiated by the facility operators or their consultants. Un-lined tanks of this age and with the absence of maintenance and monitoring present at this site present a high risk that they will leak or otherwise release their contents into the environment. Alternatively, even if the tanks are encased in cement, such encasement fails and oil can leak from the tanks through its fissures.

In addition, there are four (4) above-ground or vertical tanks. These tanks contain the largest volumes of the contaminated oil with some of the higher concentrations of PCBs. Staff's recent inspection revealed extensive rust at several locations of all of the above-ground tanks. The rust indicates a certain structural risk which will only get worse because the tanks are out of doors and have no protection from the elements.

The risk of a release from both underground and above-ground tanks continues to rise with each year that passes without testing for tightness and leak prevention. Likewise, the continued neglect can only lead to a degradation of the tanks' structural integrity. The tanks and connecting pipes have not been painted, cleaned or otherwise maintained since the plant closed. Since all of the tanks are still connected with each other, a failure in only one of these tanks could lead to the release of some of the contaminated oil from one or more of the nearby tanks.

2. Secondary containment: The integrity of the secondary containment would not be of such concern if the tanks themselves were in acceptable condition. Unfortunately, this is not the case. Staff's visit to the site produced photographs which show that the base of each of the vertical tanks to be rusting thus creating the greatest risk of release at the facility. Please note that Part 373 regulations mandate that the Secondary Containment System (SCS) for hazardous waste storage tanks must meet certain strict regulatory requirements. Staff inspection of the existing SCS revealed that the facility is not meeting those requirements. The SCS is made of concrete which is cracked throughout. In other words, the existing SCS at BCF is deemed inadequate to contain any releases from the tanks.

3. Soil & groundwater analysis: There has been no thorough site investigation regarding soil and water contamination. However, to date some soil and water tests have been conducted, including some in 1998, and these do not indicate that there has been PCB contamination of the soil or water (surface or ground). Further testing is needed. Areas with the highest potential of PCB contamination (e.g.: shoreline, and areas surrounding the tanks) were not tested.

4. Potential impacts from release: There are so many resources in the immediate area of this facility that it might be easier to identify what resources will not be impacted. The facility sits upon a sole-source aquifer and in soils that are already contaminated with "clean" petroleum. It is adjacent to Newtown Creek and the English Kills, both of which empty into the harbor and ultimately into the Atlantic Ocean. The fish, wildlife, plant and water impacts will be enormous and most likely impossible to remediate.

Applicable Regulations:

The facility is subject to a broad range of regulations. These require that the contaminated oil at the facility be treated and managed as hazardous waste. This summary views the site as a hazardous waste site.

1. Hazardous Waste Management, Identification of Hazardous Wastes, Standards for Generators and Hazardous Waste Management Facilities Parts 370 through 374: Mixtures of used oil and hazardous wastes shall be regulated as hazardous wastes, 6 NYCRR §374-2.2(a)(2)(i)(a). Further, §374-2.2(a)(2)(i)(c) specifically provides that used oil containing over 50 ppb of PCBs is presumed to be a hazardous waste. Hazardous waste must be disposed of in accordance with 6 NYCRR Parts 370 though 374-1 and 376. All tanks containing RCRA wastes are subject to the closure requirements of Part 373.

2. Inactive Hazardous Waste Disposal Sites Part 375 and 375-1: As BCF has been aware of the contamination of the site and has continued to claim that it is unable to pay for the clean-up, the Department may determine that it is abandoned and subject to the State Superfund provisions of the regulations.

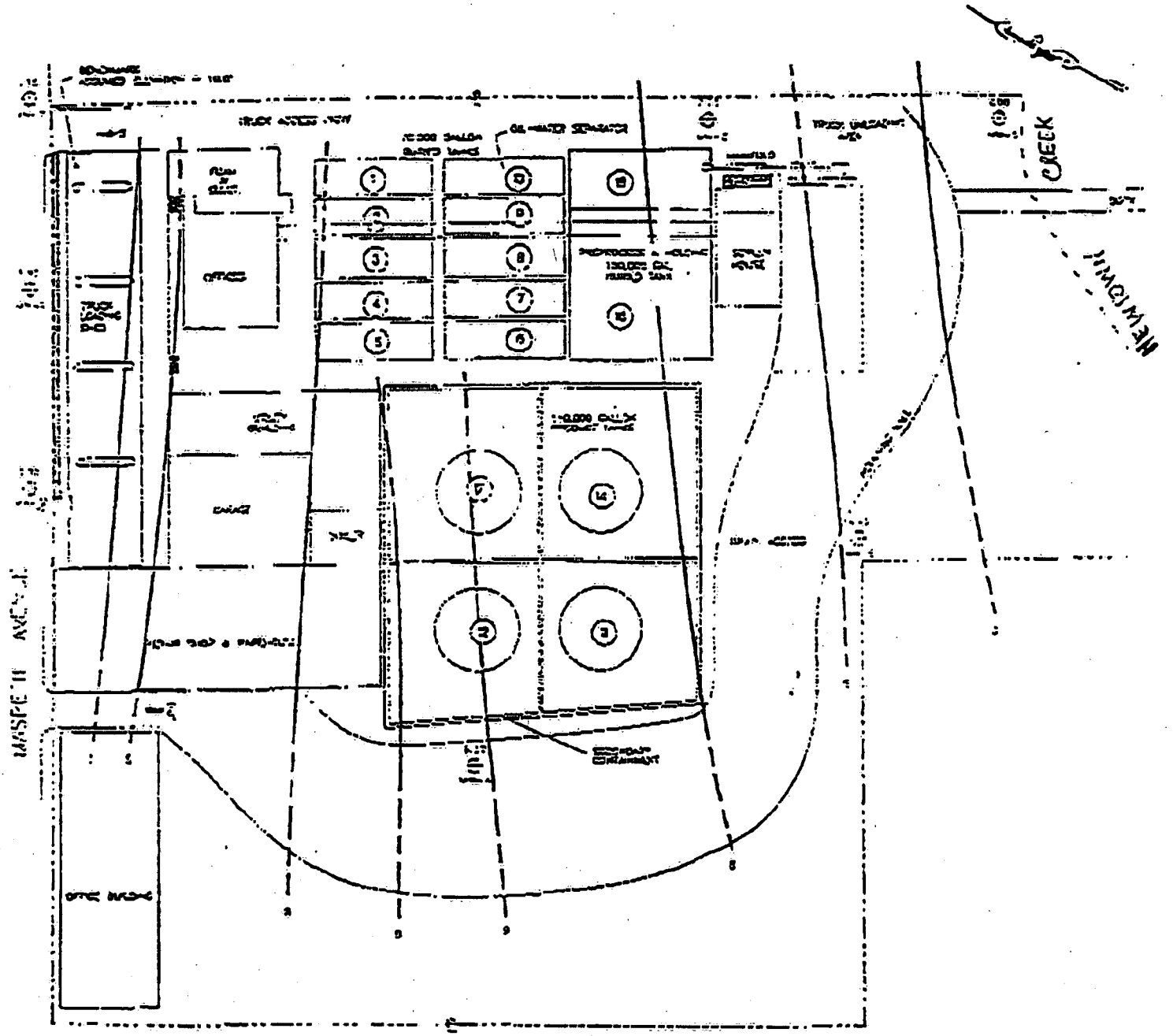
3 Petroleum Storage, Handling and Standards for New and Modified Facilities - Parts 612, 613 and 614: The facility does not have a valid Major Onshore Storage Facility (MOSF) license nor has it complied with the applicable regulations. These regulations are designed to insure the integrity of the containers and to prevent spills of oil, clean or otherwise, into the environment.

In closing, please note that a copy of the site map has been included as Attachment B. Attachment C lists each tank with the estimated amounts of waste types (oil, solids, water) with PCB concentrations. If you have any questions, please contact me immediately.

cc: Mary Ellen Kris
Tom Kunkel
Charles Sullivan
Dick Keolling

ATTACHMENT B

B.C.F. Oil Refining Facility



ATTACHMENT C

VOLUME AND PCB CONCENTRATION BY TANK

B.C.F. OIL REFINERY
BROOKLYN, NEW YORK

TANK	TYPE	MAX CAPACITY (gallons)	VOLUME CONTENTS (gallons)	VOLUME SOLIDS (gallons)	VOLUME WATER (gallons)	VOLUME OIL (gallons)	PCB 8/3/94 ppm	CONC 4/95 ppm[1]
1	UST	20,000	17,313	0	16,813	500	10	7
2	UST	20,000	19,613	0	19,413	200	120	99
3	UST	20,000	16,168	8,987	0	7,181	29	42
4	UST	20,000	13,642	9,212	0	4,430	2	13
5	UST	20,000	12,450	0	0	12,450	130	116
6	UST	20,000	18,073	13,384	0	4,689	31	29
7	UST	20,000	17,678	8,080	0	9,598	48	30
8	UST	20,000	19,599	14,976	0	4,623	9	3
9	UST	20,000	14,807	10,389	0	4,418	2	0
10	UST	20,000	0	0	0	100	6	0
11	VERT	110,000	81,217	6,000	0	75,217	630	294
12	VERT	110,000	78,324	6,000	0	72,324	150	106
14	VERT	110,000	70,133	6,000	0	64,133	460	198
15	UST	35,000	31,171	26,500	0	4,671	1	0
16	UST	150,000	86,330	86,330	0	0	8	4
17	VERT	110,000	55,816	6,000	0	49,816	10	7
		825,000	552,334	201,858	36,226	314,350		

[1]The April 1995 series of tests had a questionable sampling methodology.